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**DATE:** October 21, 2022

**TO:** County Human Service, Social Service and Community Program Agencies

**FROM:** Julie Anstett, Director of DHS Area Administration

**RE:** 2023 Purchase of Service Contracts, Audit Requirements and Waivers

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The Department of Health Services (DHS), through Area Administration, publishes this memo annually to assist county departments of human services, social services, and community programs to plan for contracts, audits, and contract or audit waivers for the upcoming calendar year.

The DHS [Guidance on Purchasing Care and Services Under Wis. Stat. § 46.036](#) contains helpful information regarding purchase of service (POS) contracts. The contract and audit requirements outlined in this memo are intended to serve as a quick reference. Counties are encouraged to have their legal counsel review all POS contracts to assure compliance with requirements found in Wis. Stat. § 46.036.

### **Contract Requirements**

The requirements for contracts are contained in Wis. Stat. § 46.036. All care and services purchased by the Department or by a county department under Wis. Stat. §§ 46.215, 46.22, 46.23, 51.42, and 51.437, except as provided under sub. III of Wis. Stat. ch. 49 and Wis. Stat. § 301.08(2), shall be authorized and contracted for under the standards established under this section.

### **Exceptions to the Contracting Requirements**

DHS considers the contracting process a sound business practice that, when properly executed, protects both the county and the provider. It is the intent of DHS to encourage the development of contracts. However, DHS recognizes that in some instances the imposition of rigid contracting procedures may pose an undue administrative burden. The following sections discuss exceptions to the contracting requirements.

### **Blanket Contract Waiver**

Through this memo, Area Administration and its regional offices grant an automatic blanket waiver for required contracts in the following circumstances:

- Purchases total \$10,000 or less in a calendar year.
- Emergency or one-time unanticipated, client-specific services that total less than \$10,000 in a calendar year.

## **No Contracts Required**

There are limited instances when a contract is not required at all. These include:

- A provider under contract with a county agency obtains services from another vendor (ancillary services).
- Placement is in a community-based residential facility (CBRF) that is owned or operated by the county making the placement.
- A payment is made directly to a client from a county agency. (**Note:** Individual client vouchers cannot be used in lieu of formal contracts for CBRF services.)

Contracts are required in all other circumstances. It is the county's responsibility to assure that the specific situations in which you do not seek contracts fit into either the "Blanket Contract Waiver" or "No Contracts Required" categories outlined above.

## **Audit Requirements and Audit Waivers**

Wisconsin Stat. § 46.036(4)(c) requires providers who receive more than \$100,000 from DHS or from a county to provide an audit to the purchaser. Audit fees are only allowable costs if an audit is required.

The \$100,000 threshold applies to the cumulative total of all DHS-related funding received by the provider. Counties must ask providers about contractual relationships with other agencies to determine the total amount of DHS-related funding that these providers receive from other sources for providing care and services. DHS-related funding for purposes of this DHS audit requirement does not include payments from Forward Health, Family Care programs, Managed Care Organizations and Home Maintenance organizations.

## **Impact of COVID-19 on Audits**

Providers need to be aware that funding received through DHS or federal programs for providing COVID-19-related services or COVID-19-related relief programs, such as the Paycheck Protection Program or the CARES Act Provider Payments, may trigger different audit requirements from prior audit periods. Some providers may be required to provide a Single Audit in addition to an audit in accordance Wis. Stat. § 46.036. Providers should consult with their auditors to ensure that the appropriate type of audit is performed. Direct audit-related questions to the DHS Internal Audit team by sending inquiries to the [DHSAuditors@dhs.wisconsin.gov](mailto:DHSAuditors@dhs.wisconsin.gov) mailbox.

## **Audit Waivers for Purchase of Services Contracts**

The DHS regional offices may waive the audit requirement on an individual provider basis. Audit waivers may be appropriate for low-risk providers where diligent fiscal and program monitoring exists. Audit waiver requests should be completed at the time of the contracting process and prior to signing the contract. Requests for audit waivers after a contract's signing are considered only if extenuating circumstances exist.

DHS cannot waive audits that are required under the Single Audit Act Amendments of 1996. This law is implemented through 2 C.F.R., Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," and requires nonprofits and local

governments that expend more than \$750,000 in federal funds to have audits in accordance with 2 C.F.R., Part 200, Subpart F. Many providers that contract with counties do not meet these federal Single Audit requirements, but these providers must comply with state audit requirements discussed in this memo. In addition, audits cannot be waived simply because funding is COVID-19-related.

The county submits POS audit waiver requests to the [regional office area administrator](#) by completing the Purchase of Service Audit Waiver Request form, [F-00945](#). This form provides information on the provider and includes a risk assessment. Instructions for completing the form and guidelines for determining the provider's risk level can be found in the Purchase of Service Audit Waiver Request Instructions, [F-00945i](#).

Waiver of the DHS audit requirement is permitted only if the provider is not required to have an audit according to the federal audit requirements cited above. If the provider does not fall under the federal audit requirements, the regional office may then approve the purchase of service audit waiver request provided that:

- The county has assessed a low risk level, as documented by the Risk Identification and Assessment Worksheet.
- The county has increased other monitoring efforts to reduce the level of risk to low.
- The county describes the alternate method of financial and program compliance monitoring implemented, in lieu of an audit, on the Purchase of Service Audit Waiver Request form.
- Department of Health Services funding is a relatively small part of the provider's overall business.

### **Audit Waivers That the County May Approve**

For POS contracts with small residential care providers, such as adult family homes, the county (rather than the state) has the authority to grant a waiver to the audit requirement if no DHS funding is involved. For contract amounts of \$100,000 or less, an audit is not required so no audit waiver is necessary. For contracts over \$100,000 that include DHS funding, the county can provide a waiver by using the same audit waiver criteria that DHS uses, and consultation with Area Administration.

- If the provider agency is determined to be a low risk by the Risk Identification and Assessment Worksheet and the cost of an audit exceeds 5 percent of the total contract (as verified by written bid), an alternate year audit schedule that covers both years may be approved.
- If it is determined that an audit would not be cost effective and may place an undue burden on the provider, the audit requirement may be waived. Specific circumstances that support granting the audit waiver and the alternate form of financial monitoring and program compliance, in lieu of an audit, must be documented.

If you have questions, please contact your [area administrator](#).